

**IN THE CIRCUIT COURT OF THE 17<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR  
BROWARD COUNTY, FLORIDA**

**GENERAL JURISDICTIONAL DIVISION**

**CASE NO. 05-40,000(27)**

**IN RE: SILICA LITIGATION**

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Pursuant to Rule 1.080(c) of the Florida Rules of Civil Procedure, the Court finds that entry of this Order is necessary for the just and more expeditious and efficient resolution of the cases on this Court's silica docket, In Re: Silica Litigation, Case No. 05-40,000(27).

When a party to this litigation wishes to serve a document—other than initial service of the summons and complaint—on counsel of record, that party shall effectuate service of the document by the procedure set forth in this Order (subject to the exceptions outlined herein). The procedures specified in this Order shall not, however, apply to initial service of process on a party, except as specified in Paragraph 5, *infra*. Initial service of the summons and complaint (and accompanying documents required by statute, rule, or court order) must be accomplished by the methods prescribed by Florida Rule of Civil Procedure 1.070.

**I. LEXISNEXIS FILE & SERVE**

1. In order to facilitate case management, document retrieval and case organization, the parties will utilize the services of LexisNexis File & Serve ("LNFS") and its litigation system (the "System") for providing electronic service, storage and delivery of court-filed and discovery-related documents through a secure website to facilitate expeditious, efficient and economical communication by and amongst counsel. The Court, at its option, may also use LNFS and its System for these purposes as well.

2. The costs to the parties for usage of the LNFS System are set forth in Attachment A to this Order, and LNFS shall not increase any of these costs without this Court's prior approval. LNFS will not charge the Court or its staff for usage of the LNFS System, nor shall LNFS charge defense liaison counsel for use of the System when liaison counsel is acting on the Court's behalf.

## II. SERVICE ONLY

3. The System shall apply only to the service of documents, and not to their filing. Original documents must still be filed in the traditional manner (*i.e.*, filing the signed original document with the Court), pursuant to Florida Rules of Civil Procedure, applicable Local Rules and Administrative Orders of the 17<sup>th</sup> Judicial Circuit, and other pertinent statutes, rules, and court orders.

## III. SERVICE LIST & SIGN-UP

4. Within five (5) days of this Order, defense liaison counsel, the Bice Cole Law Firm, P.L., shall submit to the LNFS representative a complete and current service list of counsel of record for this litigation. Within fifteen (15) days of this Order, each attorney of record for this litigation shall sign up for electronic service in this litigation by completing the application located at the website for **LexisNexis File & Serve Advanced** located at <http://www.lexisnexis.com/fileandserve>. In addition, each attorney who subsequently enters an appearance in this litigation shall complete said application within ten (10) days of the entry of his or her appearance.

5. The provisions of Paragraph 4 notwithstanding, it is the responsibility of plaintiffs' attorneys to ensure that the service list for each particular case is properly entered into

the LNFS System. Plaintiffs' attorneys shall "map" each case in the System to all defendants and their counsel of record, or shall actively obtain the assistance of LNFS personnel in doing so. Because mapping cases for appropriate service is essential to the functioning of the LNFS System, the Court has determined that mapping shall be considered an additional requirement to effect service of process in each case. Therefore, service of process upon a defendant in a particular case shall not be deemed complete until plaintiff has both served the defendant with process in accordance with Florida Rule of Civil Procedure 1.070 **and** mapped the case to that defendant and its counsel of record in the LNFS System.

#### **IV. SERVICE OF DOCUMENTS AND WEBSITE**

##### **A. Establishment and Use of the LNFS Website Generally**

6. When any counsel of record in this case wishes to serve a document (subsequent to the initial complaint and summons) in a particular case or in the In Re: Silica Litigation file, Case No. 05-40,000(27), that counsel shall serve the document according to all the requirements and procedures of this Order. The System's In Re: Silica Litigation service list shall be used only for service of documents being filed in the Court's In Re: Silica Litigation file. If a document is intended to be served only in a particular case, counsel shall designate the document for service only to parties to that case; counsel shall **not** use In Re: Silica Litigation service to serve case-specific documents on the System.

7. All references to "document" in this Order shall be interpreted to include any exhibits or attachments to the document and shall include both court-filed and discovery-related documents. Each attorney shall determine individually whether to utilize the System to serve by and amongst counsel of record the actual production of discovery documents in response to another party's request for production.

8. LNFS shall establish and maintain an Internet website (the "Website") for this litigation. All documents served by the parties will be posted by LNFS to the Website as provided in this Order. LNFS will post documents to the Website and shall serve each document as provided in this Order on the parties included on the service list provided to LNFS in accordance with the procedures herein.

9. All documents to be served shall be sent to LNFS via electronic transfer of the document file to LNFS via the Internet (either as a word-processing file or a scanned image of the document). All registered users should title their documents to identify clearly the document and the party who is submitting such document. Unless another Order specifies a time for service, any document electronically served pursuant to this Order shall be deemed to have been served under the Florida Rules of Civil Procedure.

10. After LNFS receives a document, LNFS shall convert it into Adobe Portable Document Format ("PDF") and post it to the Website within one (1) hour of receipt.

11. Within one hour of the time a document is posted to the Website, LNFS shall send an email to all registered users notifying them that the document has been posted to the Website (unless such registered user has declined to receive emails). The email shall contain hypertext link(s) to the document location(s) on the System (or, if so designated by the recipient, the email shall have the filed document attached thereto).

12. LNFS shall also offer all registered users a "daily digest" service of the type currently provided to users of the LNFS/Verilaw service system for asbestos litigation in Dade County, Florida. Users shall be allowed to opt-in or opt-out of this daily-digest service as preferred. If a user opts to receive daily digests, the daily digest shall be sent via e-mail to that user at the end of each day (*i.e.*, after midnight) and shall list all the documents served on that

user via the LNFS System during the past day. The digest shall contain hypertext links to the listed documents' locations on the LNFS System.

13. In the event a document that is to be filed with the Court is rejected by the Court for filing after it has been posted on the Website by LNFS, the rejection was caused by an aspect of the caption of the document, and the party seeking to file the document successfully files it with the Court within two (2) business days of its rejection with revisions to the caption only, then the party filing the document shall promptly submit a notice of successful filing, including the date of the filing and the revised page(s) of the caption, to LNFS for posting on the Website. In all other circumstances in which a document to be filed with the Court is rejected for filing after it has been posted on the Website by LNFS, the party that caused the document to be posted shall promptly notify LNFS in writing that the document was rejected by the Court for filing. LNFS shall promptly notify all parties on whom that document was served of the fact of rejection, and shall cause a permanent notation to be placed on the Website in conjunction with that document memorializing the fact of rejection.

14. All documents posted on the System will be identified by:

- a. the name of the filing law firm;
- b. the caption(s) of the case(s) to which the document belongs;
- c. the title of the document set forth on its caption; and
- d. the identity of the party on whose behalf the document is being served.

15. The System shall contain an index of all served documents for the litigation that will be searchable and sortable according to methods that provide useful access to the documents at any time, at every hour of the day and on every day of the year.

16. Access to the System will be limited to registered users. Registered users will consist of authorized Court personnel, attorneys of record in the Broward County silica litigation, and those attorneys' designated staff members. LNFS shall not allow persons who are not registered users in the Broward County silica litigation to access the System or any content on the System, even if said persons use LNFS's services in other jurisdictions.

17. LNFS will provide each registered user with a user name and password to access the System and the documents filed in the litigation. LNFS personnel will perform all administrative functions for the System. Any new user added after the initial setup shall be referred to the LexisNexis implementation team for registration and confirmation of email address.

18. Every pleading, document and instrument served electronically shall bear a facsimile or typographical signature of at least one of the attorneys of record, along with the typed name, address, telephone number and State Bar of Florida number of such attorney. Typographical signatures shall be treated exactly as personal signatures for purposes of electronically served documents under the Florida Rules of Civil Procedure. The filer of any document requiring multiple signatures (*e.g.*, stipulations, joint status reports) must list thereon all the names of other signatories by means of an "s/ \_\_\_\_" block for each. By submitting such a document, the filer certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filer has the other signatories' actual authority to submit the document electronically. The filer must maintain any records evidencing this

concurrence for subsequent production to the Court if so ordered or for inspection upon request by a party.

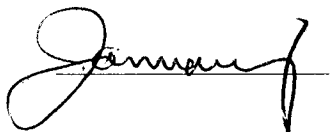
19. Any document transmitted to the System shall certify in the Proof of Service that a true and correct copy was electronically served on counsel of record by transmission to LNFS.

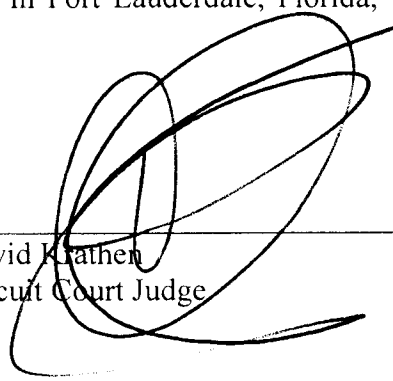
20. Until further notice, documents filed under seal (“sealed documents”) shall not be served through the System. Instead, the service of sealed documents shall be made pursuant to applicable law.

21. LNFS shall have no proprietary interest in any documents served via the System by the Court, the parties, the parties’ attorneys, or the attorneys’ staff.

22. To address any technical questions that may arise during the course of this litigation, LNFS shall also have available to counsel of record and the Court a help desk hotline at (888) 529-7587 that shall provide service 24 hours per day, 7 days per week.

**DONE AND ORDERED** in Chambers in Fort Lauderdale, Florida, this 20 day of

 , 2006.

  
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David Klathen  
Circuit Court Judge

Copies furnished:

To all counsel of record